



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,998	02/25/2004	Alexander Hayduk	HAYDUK - 1	3922

25889 7590 03/21/2006

WILLIAM COLLARD
COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN, NY 11576

EXAMINER

BASTIANELLI, JOHN

ART UNIT PAPER NUMBER

3751

DATE MAILED: 03/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/786,998
Filing Date: February 25, 2004
Appellant(s): HAYDUK, ALEXANDER

MAILED
MAR 21 2006
GROUP 3700

Allison C. Collard
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 23, 2006 appealing from the Office action mailed August 18, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Berchem US 5,271,427 and Berchem US 4,968,004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berchem US 5,271,427 in view of Berchem US 4,968,004.

(10) Response to Argument

Appellant argues that Berchem '427 relates to a valve that is not an equivalent structure to the disc slide. Appellant agrees that "both structures can be used for the same purpose". Recognizing this, the examiner has provided a reference, Berchem '004 that discloses the equivalency of a ball valve (Fig. 1) with a disc slide valve (Fig. 2). Therefore, Berchem '004 shows that Berchem '427 may be made as a disc slide comprising a slide plate with two sealing discs using the materials cited by Berchem '427 (col. 2, lines 5-6, silicon dioxide is quartz glass).

Appellant argues that Berchem '004 teaches away from the use of the claimed materials. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The examiner is only using Berchem '004 as a secondary reference to show the equivalency of a ball valve with a disc slide valve.

Appellant argues that the present invention has "surprising advantages not taught or suggested by the prior art". The examiner would like to note that there is no factual evidence supporting appellant's opinion about these "surprising advantages".

Art Unit: 3751

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

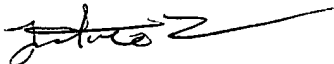
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

John Bastianelli



Conferees:

Justine Yu 


Robert Fetsuga